

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

THOMAS D. DOMONOSKE, individually and
on behalf of all those similarly situated,

Plaintiff,

v.

BANK OF AMERICA, N.A., a national
banking association,

Defendant.

Civil Action No. 5:08-cv-00066

VICTOR RIVERA, individually and on behalf
of all those similarly situated,

Plaintiff,

v.

BANK OF AMERICA, N.A., a national
banking association,

Defendant.

Civil Action No. 5:09-cv-00080

**BANK OF AMERICA, N.A.'S JOINDER IN MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

In accordance with the Order (Docket Entry 109) entered by the Court preliminarily approving the class settlement in these consolidated actions,¹ and in advance of the Final Fairness Hearing set for March 31, 2011, Bank of America, N.A. ("Bank of America") hereby submits the following in support of final approval of class action settlement.

¹ By order dated October 7, 2009, the Court consolidated the action styled *Domonoske v. Bank of America, N.A.*, Civil Action No. 5:09-cv-00066 (the "*Domonoske* action"), with the similar action styled *Victor Rivera v. Bank of America, N.A.*, Civil Action No. 5:09-cv-00080 (the "*Rivera* action") for purposes of settlement (together, the "Actions"). The settlement which is the subject of the pending motion for final approval would, by its terms, resolve both Actions.

Bank of America presented the relevant background and analysis of the issues before the Court in its Joinder to Plaintiffs' Motion for Preliminary Approval of Class Action Settlement (Docket Entry 75). Those issues have not changed since, and so the Bank will not repeat them here. In sum, the settlement was the product of rigorous, lengthy, and arm's-length negotiations. Especially in light of the significant risks the class faced in pursuing these actions, and the lack of actual injury suffered as a result of the alleged regulatory violation here,² the settlement provides a very significant recovery for class members. Indeed, a substantial majority of the objections filed to the settlement similarly point to the lack of actual injury and the nature of the conduct challenged – the timing of a credit score disclosure. These objections assert not that the settlement is insufficiently generous, but that no settlement is warranted under these circumstances. On this record, there is no credible basis to conclude that the settlement presented is not fair, reasonable or adequate from the standpoint of class members.

The class notice and administration provisions are at the “platinum standard,” and go well beyond meeting the due process requirements here. To progress the settlement to this juncture, Bank of America has agreed to pay the very substantial costs associated with that administration to date. For all these reasons, Bank of America submits that the settlement is fair, reasonable, and adequate, and that it should be finally approved by the Court.

February 3, 2011

Respectfully Submitted,

By: /s/ R. Grant Decker

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² 15 U.S.C. § 1681g(g).

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Certificate of Service

I hereby certify that on February 3, 2011, I electronically filed the foregoing **BANK OF AMERICA, N.A.'S JOINER IN MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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